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Disciplinary Policy

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The aims of this procedure and the associated *Disciplinary Rules* are to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

WHAT IS COVERED BY THE PROCEDURE?

This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure elsewhere in the employment guide and associated policies.

Minor conduct issues can often be resolved informally between you and your supervisor/Manager. These discussions should be held in private and without undue delay whenever there is cause for concern. We may record such informal discussions on your personnel file, and we may even give you an informal warning as to your future conduct, but we shall not equate any such note with a live formal warning issued under the *Disciplinary Procedure*.

We shall take formal steps under this procedure if the matter is not resolved informally or if an informal approach is inappropriate, *e.g.* because of the seriousness of the allegation.

You will not normally be dismissed for a first act of misconduct, unless (i) we decide it amounts to gross misconduct; and/or (ii) you have not yet completed your probationary period.

If you have difficulty at any stage of this process because of a disability, you should discuss this with the Personnel Manager as soon as possible.

CONFIDENTIALITY

Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings held under this procedure. You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

INVESTIGATIONS

The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. The Personnel Manager will usually appoint an Investigating Officer to carry out this investigation.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.

You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

CRIMINAL CHARGES

Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action. We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it may bring the company into disrepute or is otherwise relevant to your employment.

SUSPENSION

In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by the Personnel Manager.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations.

NOTIFICATION OF A HEARING

following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:

- a summary of relevant information gathered during the investigation.
- a copy of any relevant documents which will be used at the disciplinary hearing.
- a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually two to seven days, to prepare your case based on the information we have given you.

THE RIGHT TO BE ACCOMPANIED

You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell the Personnel Manager who your chosen companion is, in good time before the hearing. A companion is allowed reasonable time off from work without loss of pay, but no-one can be forced to act as a companion if they do not want to.

If your choice of companion is unreasonable, we may require you to choose someone else, for example:

- if in our opinion your companion may have a conflict of interest or may prejudice the hearing; or
- if your companion works at another site and someone reasonably suitable is available at the site at which you work; or
- if your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

Exceptionally we may, at our discretion, allow you to bring a companion who is not a colleague or union representative (*e.g.* a member of your family) where this will help overcome a disability, or where you have difficulty understanding English.

PROCEDURE AT DISCIPLINARY HEARINGS

If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.

The hearing will be chaired by an appropriate KPP senior manager who can hear disciplinary proceedings. There will also be an Investigating Officer (Another nominated Manager) and the Personnel Manager will also be present, to take notes and to advise on procedural matters. You may bring a companion with you to the disciplinary hearing, (see points 19-21 above).

At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise.

We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

We will inform you in writing of our decision and our reasons for it, ideally within one week of the disciplinary hearing. Where possible we will also explain this information to you in person.

DISCIPLINARY PENALTIES

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

STAGE 1 - FIRST WRITTEN WARNING

A first written warning may be authorised by a manager. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

STAGE 2 - FINAL WRITTEN WARNING

A final written warning may be authorised by the Managing Director. It will usually be appropriate for:

- Misconduct where there is already an active written warning on your record; or
- Misconduct that we consider sufficiently serious to warrant a final written warning, even if there are no other active warnings on your record

STAGE 3 –DISMISSAL

Dismissal may be authorised by the Managing Director. It will usually only be appropriate for:

- Any misconduct during your probationary period.
- further misconduct by an employee who is subject to a live final written warning (because this is a form of Gross Misconduct).
- Any Gross Misconduct, whether or not you have any active warnings on file. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice. Examples of gross misconduct can be found in the Appendix at the end of this policy.

ALTERNATIVES TO DISMISSAL

In exceptional cases where gross misconduct is proven, we may at our discretion consider alternatives to dismissal, such as: These will usually be accompanied by a final written warning. Examples include:

- Demotion, if this is relevant; and/or
- Transfer to another department or job; and/or
- Suspension without pay for up to two weeks; and/or
- Loss of seniority; and/or
- Reduction in pay; and/or
- Loss of overtime; and/or
- A final written warning of extended or indefinite duration.

THE EFFECT OF A WARNING

Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months, although a longer final written warning may be given under point 28 above. After the active period has run its course; the warning will be disregarded in relation to the outcome of future disciplinary proceedings, although it will remain on your personnel file.

APPEALING AGAINST DISCIPLINARY ACTION

If you feel that disciplinary action taken against you is wrong or unjust you should appeal, in writing, stating your full grounds of appeal, to the Managing Director within one week of the date on which you were informed of the decision.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful, you will be reinstated with no loss of continuity or pay.

If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.

We will give you written notice of the date, time and place of the appeal hearing, which will normally be 3 to 7 days after you receive notice of the hearing.

Depending on the nature and circumstances of the appeal, the appeal hearing may be either a complete re-hearing of the matter or a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light.

Where possible, the appeal hearing will be conducted impartially by a more senior manager who, ideally, has not been previously involved in the case. A manager also not involved with the case will also be present, to take notes and to advise on procedural issues from the employment guide. You may bring a companion with you to the appeal hearing (see points 19-21 above).

We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing we may:

- Confirm the original decision.
- Revoke the original decision; or
- Substitute a different penalty.

We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

APPENDIX

Gross misconduct is an act which justifies dismissal without notice, or pay in lieu of notice, for a first offence. These acts must be acts that destroy the relationship of trust and confidence between the employer and employee, making the working relationship impossible to continue.

The following lists some examples of gross misconduct. Please note that this list is not finite.

THEFT, FRAUD AND DISHONESTY

- Stealing office equipment, company stock, merchandise or cash.
- Stealing personal belongings from colleagues.
- Unlawfully obtaining or disclosing commercial data.
- Making fraudulent expenses or overtime claims.
- Fraudulently using personal data for personal use.
- Falsifying accounts, time-recording forms or self-certification forms.

OFFENSIVE BEHAVIOUR

- Harassment
- Bullying.
- Fighting.
- Aggressive or intimidating behaviour.
- Threats of violence.
- Dangerous horseplay.

BREACHES OF HEALTH AND SAFETY RULES

- Removing or not using machinery guards.
- Persistently refusing to wear Personal Protective Equipment (e.g. a hard hat, noise protectors or respirators).
- Dangerous driving on the work site.

DAMAGE TO PROPERTY

- This can include deliberate or wilful damage to property or gross negligence that can result in substantial loss or damage to property.

SERIOUS INCAPACITY OR MISCONDUCT CAUSED BY AN EXCESS OF ALCOHOL OR DRUGS AT WORK

- Serious incapability due to drinking or taking drugs whilst on duty.
- Possession of drugs or taking drugs on the employer's premises.
- Buying or selling drugs on the employer's premises.